guarding continuance of existing routes, channels of trade, gateways, etc. Cognizant that similar conditions have been prescribed in numerous recent authorizations under section 5(2), Illinois Central contends that the fact that L-and-N is involved herein as an important third carrier affected by the merger proposal cancels any protection that the suggested conditions might offer to connecting and competing railroads; and that the merger would result in a new and close financial relationship between Seaboard and L-and-N which would destroy the neutrality that presently exists. Illinois Central emphasizes its fears that the merged company would favor L-and-N in the interchange of traffic, and such would be particularly onerous because together those carriers would operate and control 58.1 percent of all existing class I mileage within Florida, Georgia, and the Carolinas; and the next largest railroad would be Southern Railway, which operates only 21.9 per cent of the total mileage in that area.

In rebuttal, the applicants assert that the policies and practices now observed by Coast Line in its traffic and operation relationships with L-and-N would be adhered to by the merged company. The ownership of L-and-N stock by Coast Line has continued for about 60 years and represents an important asset which has been given consideration in evaluating Coast Line's contribution to the merged company, and in supporting the ratio of exchange of stock. While the stock owned by Coast Line is equivalent to approximately 33 per cent of the voting power of L-and-N, and Coast Line has owned as much as 51 percent thereof in years past, Coast Line never exercised control of the operations or traffic policies of L-and-N. The same voluntary restraint would be the policy of the merged company. The applicants foresee no threat of there being any appreciable

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change in the flow of L-and-N's traffic, or the

manner of interchange of that traffic with Illinois Central as a consequence of the proposed merger.

Directly concerned with the position of Illinois Central that the merged company be required to divest itself of Coast Line's present ownership of capital stock of L-and-N, are the Chicago & Eastern Illinois Railroad Company, and the Monon Railroad, interveners. Each maintains interchange connections at various gateways with Illinois Central and L-and-N, and each desires to assure continuance of such arrangements. Because they consider that substantial competitive advantages would accrue to Illinois Central if it should acquire the stock of L-and-N and control the latter's operating practices and traffic policies, these interveners foresee that traffic now moving over their lines in conjunction with L-and-N would be diverted to Illinois Central. Each fears that consequences of such a situation would be detrimental to their continued existence as operating carriers, and that their respective operations would be reduced in status to that of a switching carrier with no prospect of continued profitable operations as line haul carriers.

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Norfolk Southern Railway Company (Norfolk). Norfolk's intervention purports to seek protection from the adverse effect which would result from termination of the present competition between Seaboard and Coast Line in the event the merger is authorized and consummated. To offset the possible loss of revenues which applicants estimate would be in excess of $274,000 annually, Norfolk requests the Commission to impose as conditions to approval of the transactions herein, the following:

(a) Seaboard Coast Line Railroad and its connections be required to open new routes, and to maintain thereover competitive joint rates and just and equitable divisions thereof in connection with Norfolk Southern Railway

Company via Wilson, N. C., via Fayetteville, N. C., and via Raleigh, N. C., on all traffic moving between (i) all stations on the Seaboard Coast Line Railroad Company and its connections south of Norfolk Southern's line, on the one hand, and (ii) Norfolk, Va., and points in Official Territory located in the Buffalo-Pittsburgh, Eastern Trunk Line, and New England Territories, including Canada on the other.

(b) Seaboard Coast Line Railroad Company and its system lines shall maintain and keep open all routes and channels of trade via existing junctions and gateways, unless and until otherwise authorized by the Commission.

(c) Seaboard Coast Line Railroad Company and its system lines shall maintain, in connection with Norfolk Southern Railway Company, the same rates and divisions as are now in effect, unless a change is agreed upon by the parties or approved by the Commission. New rates which may be established by the Seaboard Coast Line Railroad Company and/or its system lines shall apply over all existing routes and via existing junctions and gateways, unless a change is agreed upon by the parties or approved by the Commission.

(d) Seaboard Coast Line Railroad Company and its system lines shall handle inbound and outbound traffic with neutrality so as to permit equal opportunity for service to and from all lines reaching the rails of Seaboard Coast Line Railroad Company and/or its system lines without discrimination as to routing or movement of traffic and without discrimination in the arrangement of schedules or otherwise.

(e) The present traffic and operating relationships existing between either the Atlantic Coast Line Railroad Company or the Seaboard Air Line Railroad Company on the one hand, and all lines connecting with their tracks, on the other, shall be continued insofar as such matters are within the control of Seaboard Coast Line Railroad Company.

(f) Seaboard Coast Line Railroad Company and/or its system lines shall accept, handle and deliver all cars inbound and outbound, loaded and empty, without discrimination in promptness or frequency of service as between cars destined to or received from competing carriers, and irrespective of destination or route of movement.

(g) Seaboard Coast Line Railroad Company shall not do anything to restrain or curtail the right of industries located on its and/or its system lines to route traffic over any or all existing routes and gateways.

(h) Any party or person having an interest in the subject matter may at any future time make application for modification of the foregoing conditions, or any of them, as may be required in the public interest, and that jurisdiction be retained by the Commission to reopen the proceedings upon its own motion for the same purpose.

Norfolk's main line extends from its northern terminal at Norfolk in a southwesterly direction to Charlotte, N. C., 379 miles, with branch lines totaling 210 miles from various points to Marsden, New Bern, Bayboro, Belhaven, Fayetteville, Durham, and Aberdeen, N. C., and Virginia Beach and Shelton, Va. Norfolk serves 19 points competitive with other railroads and 31 stations served by no other railroad. Of the competitive points, Seaboard serves 8, the principal ones of which are Norfolk, Raleigh, Durham, Aberdeen, and Charlotte; and Coast Line serves 8, including Norfolk, Plymouth, New Bern, Greenville, Wilson, and Fayetteville. In competition with Seaboard, Coast Line solicits traffic for joint movement via its lines and those of Norfolk to and from points common to Seaboard and Norfolk; and Seaboard solicits for joint movement in conjunction with Norfolk in respect of points common to Coast Line and Norfolk. Norfolk is convinced that consummation of the proposed merger would end such friendly arrangements, and that the merged company would solicit routings against movements in combination with Norfolk.

Generally, Norfolk's traffic consists of low grade commodities which move under low rates in relatively low density.

Since 1928, the Commission has found Norfolk to be a financially weak line and has accorded it special rate and division privileges in the form of so-called "relief line arbitraries" to the prescribed standard class rates. See *Southern Class Rate Investigations*, 128 I.C.C. 567 (594-98), and related decisions. The same status has been recognized continuously in succeeding class rate adjustments and in various decisions involving commodity rates. Norfolk also was recognized as a weak line experiencing financial difficulties in *Division of Rates, Official and Southern Territories*, 234 I.C.C. 175. Similar conditions were acknowledged in Finance Docket No. 21121, *Norfolk Southern Ry. Co. Loan Guaranty*, approved July 26, 1960.

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During 1960, Norfolk handled 112,345 carloads of traffic involving 4.88 million tons of freight on which it received $9,223,548 revenue, compared to 1956 totals of 134,062 carloads, 5.46 million tons, and $10,520,251 revenue received. Overhead traffic during 1956 and 1960, in order, totaled 19,523 and 13,147 carloads; 613,813 and 414,665 tons; and $1,558,425 and $1,115,646 revenue received. Of such traffic, the portion involving freight originating or terminating on lines of the applicants involves movements received from Seaboard at Raleigh and delivered to connections at Norfolk for transshipment to points within the Buffalo-Pittsburgh, Eastern Trunk Line, and New England (including Canada) areas of the Official Territory. Studies for a period including July 1958 through June 1959 showed that such interchange traffic which originated on Seaboard's line produced revenues of $28,317, and that no revenue accrued from interchange traffic destined to points on Seaboard's lines. Because Coast Line maintains closed routes to protect its long haul, Norfolk generally is able to participate in the movement of traffic originated at or destined on the lines of Coast Line to or from points in the North, although interchange connections could be made in Fayetteville and

Wilson. Norfolk contends that conditions requiring maintenance of open routes via existing channels of trade would neither offset nor minimize the loss of revenues which the applicants concede would occur in the event the merger is approved. Therefore, it proposes that the merged company be required to establish new routes and joint competitive rates via Wilson, Fayetteville, and Raleigh for overhead movements via the Norfolk gateway. By having such routes available, Norfolk anticipates that it would be able to solicit traffic over the newly opened routes, and thus replace some of the lost traffic with new business, in the same manner that Norfolk heretofore has attracted overhead traffic to move in conjunction with its Charlotte gateways. Considering that an average revenue of $85 per car accrues on its overhead traffic, more than 3,226 carloads of new overhead traffic would be required annually to produce revenues equal to the amount of the threatened diversion, plus sufficient amounts to cover the cost of the required solicitation. Norfolk's vice-president estimates that successful solicitation in this respect for a period of 10 years would be required to increase its annual revenues sufficiently to replace the $274,000 prospective loss, and that within the 5-year period in which the expected diversion would reach the maximum amount, Norfolk's counter solicitation would have achieved only 50 percent of the total.

The applicants describe Norfolk's operations as east-west in nature, and those of the applicants as north-south which provides direct service between points in Southern Territory and those in Official Territory. As presently contemplated, the merged company would operate two freight trains, Nos. 112 and 210, in both directions through Fayetteville and Wilson, under expedited schedules to and from Richmond for interchange with connecting carriers, and such schedules would be interrupted if

Norfolk were to be permitted to participate via its Raleigh and Norfolk Gateways. Under those circumstances, it appears that any routes so contrived would not constitute the service route over which the available traffic would be attracted.

Appalachicola Northern Railroad Company (Appalachicola) and affected intervener. The interest of Appalachicola is confined to determination of the proposed abandonment, after merger, of Coast Line's branch between Climax, Ga., and Chattahoochee, Fla. Anticipating that such abandonment would have adverse economic effect upon its interests, Appalachicola requests that approval of the transactions herein be subject to a condition requiring the sale and transfer to it of the Climax-Chattahoochee branch for a consideration no greater than the salvage value which Coast Line would realize from such abandonment, or in the alternative, requiring a long-term lease to Appalachicola of the aforesaid branch line, at a fair rental based upon the salvage value thereof.

The line of Appalachicola extends 96.3 miles from Port St. Joe (on the Gulf of Mexico) to Chattahoochee, where it connects with lines of Coast Line, Seaboard, and L-and-N. Except for rack cars used in transporting pulpwood, Appalachicola is dependent upon the connecting railroads for an adequate supply of cars. During the past 5 years, it has interchanged an average of 67,681 cars per year, of which Coast Line handled about 51.24 percent, Seaboard handled 38.44 percent, and L-and-N handled 10.31 percent. In the event the Chattahoochee branch (30.8 miles) is permitted to be abandoned, all the traffic interchanged with the applicants would move over Seaboard's present line between Chattahoochee and Tallahassee, which route entails more mileage than if handled via the Coast Line route.

St. Joe Paper Company, which owns the entire capital stock of Appalachicola, intervened in support of the latter's position

and joins in requesting imposition of the aforesaid condition if the merger is authorized. The traffic handled by Appalachicola on behalf of St. Joe Paper Company comprises approximately 87.7 percent of the total annual tonnage. The paper company receives about 85 percent of its pulpwood shipments by railroad, including about 7 percent which originates at points within areas served directly by Appalachicola, and about 77 percent shipped from areas served by the connecting railroads. The paper company estimates that its railroad freight costs would increase about $222,000 per year if the objected-to abandonment is permitted. In view of that situation, it concludes that St. Joe's competitive status in the paper industry would be seriously disadvantaged, particularly because other paper companies served by the applicants would enjoy newly created single line service in regard to pulpwood presently involving interchange between lines of Seaboard and Coast Line.

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Stipulations with other railroads. Admitted in evidence are separate stipulations, each dated October 14, 1960, between Seaboard and Coast Line as parties on the one hand, and on the other, the Aberdeen and Rockfish Railroad Company, the Valdosta Southern Railroad, and the Atlantic and Western Carolina Railway Company. The stipulations are identical in language except for appropriate variations in name designations, and set forth in six numbered paragraphs, conditions with which the merged company would comply, upon consummation of the proposed merger of Seaboard and Coast Line, "in so far as it lies within their power, and unless and until a change is hereafter agreed upon by the parties hereto or subsequently authorized by an appropriate modifying order of the Interstate Commerce Commission or an order of such other regulatory body having jurisdiction."

The stipulations set forth conditions obligating the merged company to maintain and keep open all routes and channels

of trade via existing junctions and gateways, and related matters pertaining to future traffic and operating relationships. Except as explained hereinbelow, the language of the conditions is precisely the same as that contained in those which the applicants have consented to accept in the event the Commission approves the merger. However, there is one instance where the language varies. The third of the stipulated conditions, referring to continuation of the present relationships between the applicants and the other party in each stipulation, omits the phrase "in so far as such matters are within the control of the Seaboard Coast Line Railroad Company," which appears in the conditions which are suggested for application as to all connecting railroads. It appears that the ommission of such language does not vitiate the provisions, or modify the intent of the conditions listed by the applicants, as discussed in detail hereinabove.

OTHER INTERVENERS

Stock exchange ratio. In December 1958, Coast Line and Seaboard separately engaged different nationally known firms of investment consultants to conduct extensive studies pertaining to the current and prospective financial positions of the applicants and their respective corporate securities, and the posture which the merged company would assume upon consummation of the merger. The firms were directed to develop various bases for negotiation of an equitable ratio of stock exchange as part of the merger plan, and each reported solely to the company which engaged it. Along with the pertinent fiscal data including final accounts for 1959 and other records and material, the financial consultants considered the conclusions and recommendations of the engineering and economic consultants discussed hereinabove.

The agreed rate of exchange of the stock of the applicants for the stock of the merged company is based upon considera-

tion of many factors reflecting the contribution by each applicant to the financial stability of the proposed merged company. Of

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primary importance in the evaluation is the recorded earning power of each, and the relationship thereof to each other. Other factors present additional measures of the advantages inherent in the physical, operating, or financial position of the applicants. Among those considered are quantitative values (subject to measurement) which include the existing physical plants and equipment of each applicant; the net investment in transportation property including cash, and materials and supplies; book value of the equity involved and the related acquisition adjustment; gross operating revenues; net railway operating income; income available for fixed charges and the payment of Federal income taxes, depreciation, refirements, and amortization obligations; net income; operating ratios; adjustments of net income to reflect accounting differences; dividends received as income from subsidiaries; and stock market prices and dividends paid to stockowners by each applicant. Also considered are qualitative values (relative factors), which include various relationships between total charges and earnings; net income (reported and adjusted) and gross revenues; total indebtedness and gross revenues; debt and total capitalization; ratios of dividends to net income; computations of net working capital; the rate of return on investment before Federal income taxes; and net income available for common stock after payment of preferred stock dividends. Intangibles, the values of which are primarily matters of judgment, include the effectiveness of the present managements; the nature of the territory served by each applicant and the potential business growth of the tributary areas; the prospects of improved earning power; the character and balance of traffic available and handled; and the availability of originating traffic for movement over the railroads involved.

The studies supporting the ratio of stock exchange are based chiefly upon 10-year averages covering operations and earnings through 1959. The period is representative of recent general economic conditions and is sufficiently long to encompass a period of widely varying situations. Within the selected period are reflected war expanded activities during the 1950-53 Korean conflict, the recession of 1954, the boom years of 1955 through mid-1957, the business setback of late 1957 and 1958, and the more normal conditions of 1959. For the purpose of discerning trends based upon shorter periods, computations were made covering averages for 5 years, and for 3 years, each ending with and including the entire year of 1959. Where applicable, the recorded totals were adjusted to reflect Seaboard's acquisition of the Macon, Dublin & Savannah Railroad Company on March 1, 1958, and the merger of the Charleston & Western Carolina Railway Company into Coast Line on December 31, 1959. Calculations showing per-share earnings and related results reflect as of December 31, 1959, outstanding common stock shares as follows: Seaboard—4,834,799 shares including 55,151 held for sale under its company stock option plan, and Coast Line—2,627,256 shares including 47,275 held under its restricted stock option plan. Upon conversion of

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Coast Line's stock under the proposed ratio of exchange, the merged company would have outstanding 8,565,503 shares of common stock, or, 8,687,784 shares if the options of both applicants are fully exercised. In relation to the outstanding shares, the stockholders of Seaboard would have 56.44 percent of the merged company's shares of stock, and the holders of Coast Line's common and original preferred stock would receive 43.56 percent of the total shares outstanding.

Attached hereto as appendix "L" are summaries of recorded major statistics pertaining to the operations and earnings of both applicants. The studies selected are typical of the factors

considered in the general decision by the applicants as to the equitable, fair, and reasonable ratio of exchange. The percentage relationships shown reflect each applicant's proportionate contribution to the combined total. Where the results as to the component factors are of significance for comparative purposes, the percentage ratios are applied to determine the per-share bases, or the exchange ratios corresponding to the relative contribution of each applicant in that respect.

For purposes of comparing the net income and the portion thereof available for common stock as to each applicant, statistical adjustment of the reported earnings and income totals were made to eliminate differences in accounting procedures, tax treatments, and other conditions of abnormal circumstances. The more significant adjustments entail (1) the inclusion in book equity values of acquisition adjustment allowed for purposes of ratemaking and depreciation to give effect to the elimination of special tax benefits from rapid amortization, restoration of maintenance charges to operating expenses charged to reserves by Seaboard during 1948-52, and elimination of the delayed income credit in Coast Line's earnings in 1952; (2) the substitution of more favorable operating ratios of Coast Line in lieu of the 10-year average ratio which had been distorted because of extraordinary maintenance expenditures between 1948 and 1957, inclusive, and its effect in distorting the ratio in relation to that of Seaboard; (3) credit to Coast Line of values reflected by financial benefits accruing from its ownership of stock of L-and-N, which for many years has experienced greater stability of earnings than Coast Line, to the extent that (a) the market value of the stock is substantially higher than the recorded book cost, (b) the financial and operating advantages enjoyed by Coast Line because of its power to control L-and-N, and (c) the preferred quality of the dividend income in terms of income tax benefits, all of which taken together, was taken to justify an adjustment equivalent to Coast Line's proportionate share of L-and-N's undistributed net

earnings less the dividend tax applicable each year. For similar reasons, adjustments are made in regard to accounting items of casualty reserves, vacation accruals, sale of stock under company options, investments, certain accruals, and deposits included in net working capital, intercorporate rentals and other income, and differences in outstanding debts.

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Another significant adjustment relates to evaluation of the holdings of properties and lands presently not used or necessary for railroad operations, but, available for future expansion of industries served by the merged company, or to provide additional transportation facilities which would add to the applicants' respective contributions to the earning potential of the merged company. Related as a specific incident is the elimination of certain non-transportation properties of Coast Line which affected the value of its capital stock, and the total value of the properties owned by Coast Line. Involved was a landholding subsidiary, the Atlantic Land & Improvement Company, which during many years had acquired considerable land in Florida. A large portion of such properties was not usable for railroad purposes or for industrial development which would benefit Coast Line's railroad business. In 1948, title to the lands in question was transferred to the so-called "South Florida Project" organized to plan water-control and other land improvement programs and to institute agricultural development of the properties. In 1959, a new Florida corporation, the Alico Land Development Company (Alico) was created. As approved by the Internal Revenue Service in a ruling regarding tax aspects, Alico's capital stock was exchanged for the land and other assets of South Florida Project. The entire issue of Alico's stock, approximately 2,650,000 shares, was held by Coast Line's landholding subsidiary. On February 25, 1960 the stock was spun off to Coast Line, and on March 31, 1960, it was distributed to the latter's stockowners at the rate of 1 share for each share of Coast Line stock.

Within the period prior to and immediately following the spin-off, quotations of the price of Coast Line stock on the New York Stock Exchange fluctuated as follows: Between January 1, and February 24, 1960, the price ranged between $51 and $58.63 per share; between February 25 and 29, it ranged between $45.13 and $48.50 per share; between March 1 and April 30, its range was between $40.50 and $46.00 per share; and on June 23, 1960, Coast Line's stock sold at prices between $53.25 and $53.75 per share. The quotations of $58.63 which occurred on February 24, and $40.50 which was recorded on March 4, represented the highest and the lowest sales prices during 1960. Following the "spin-off," Coast Line's properties usable for transportation purposes were appraised at $45,000,000 market value (about $11,000,000 book value), which exceeds the market value of Seaboard's holdings of similar properties by about $25,000,000.

To estimate the results of the future operations and position of the merged company, a further adjustment was deemed to be essential to determine allowances properly creditable to each applicant because of its contribution to the prospective savings and increased earnings which the proposed consolidation of the properties and operations of the applicants would produce. Using the conclusion of the engineer consultants that more than $38,700,000 savings would be generated each year after the fifth year of merged existence, the financial consultants and applicants' officers

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agree that the $18,580,000 per year remaining after payment of corporate taxes should be divided equally to the credit of Seaboard and Coast Line. Thus, the net savings involved would amount to approximately $2.14 per share of the merged company and of Seaboard's present stock, and $3.04 per share on Coast Line's stock after conversion on the basis of 1.42 to 1. Improvements in the value of each appli-

cant's stock would vary in proportion to the actual savings which would inure. Assuming that 100 percent of the estimated savings are realized, the potential earnings improvement to the shareholders of Seaboard and Coast Line would be as follows:

Past Operations Base	Net Income Per Share	Adjusted Net Income (*)	Gain Per Share
		SEABOARD AIR LINE	
10-year average	$3.79	$5.73	$1.94
5-year average	3.80	5.64	1.84
3-year average	3.46	5.34	1.88
		ATLANTIC COAST LINE	
10-year average	4.79	8.14	3.35
5-year average	4.47	8.00	3.53
3-year average	4.13	7.59	3.46

(*) Includes estimated net savings $18,576,000.

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The full effect of each of the adjustments outlined hereinabove, and others applied to the recorded average annual totals of accounts covering the 1950-59 period, are summarized in appendix "M" attached hereto. Application of the adjusted totals shows relationships and ratios of Seaboard's contribution to the merged company compared to comparable contribution of Coast Line, as follows:

	Seaboard	Coast Line
Percent of contribution to combined earnings of merged company	$57.85	$42.15
Earnings per share (4,898,950 shares SAL; 2,700,481 shares ACL)	3.124	4.129
Ratio—Coast Line to Seaboard		1.322

Effect on ratio of estimated annual savings $18,576,000 after taxes, divided one-half each to Seaboard and Coast Line on percent of predicted savings, as follows:

20 percent	1.375
40 percent	1.418
60 percent	1.453
80 percent	1.483
100 percent	1.508

On their own behalf as individuals, intervention was permitted by an owner of several thousand shares of Seaboard stock, and by the owner of an undisclosed smaller number of shares of Coast Line stock. Each participated in corss examination of the executives and fiscal officers and consultants of the applicants. The holder of the Seaboard shares is opposed generally to the proposed merger, and expresses particular concern that the merged company might be controlled and operated in common with the L-and-N, for which reason he requests that if the transactions herein are approved and authorized, a condition be imposed which would require Coast Line to divest itself of holdings of the capital stock of L-and-N.

Incidental to his interest in the stock ratio, the holder of Coast Line stock is concerned about the alleged existing common control of Coast Line and L-and-N by Merchantile, and opposes the trust company's acquisition of control of Seaboard through ownership of the merged company. In that connection, he requests denial of the supplemental application of Mercantile, including its request to be considered not a carrier subject to the act. He also requests the Commission to require Coast Line to spin-off its holdings of L-and-N stock to the present holders of Coast Line stock, or, in the alternative, to order the sale of such stock with the proceeds to be used for retirement of Coast Line's outstanding bonds.

The Coast Line stockowner is of the opinion that the exchange of stocks should be at the rate of three shares of the merged company's stock for each outstanding share of Coast Line common stock, and one share of the new stock for each share of Seaboard's outstanding stock. In his view, to the extent that any other exchange ratio is asserted, the applicants have failed to satisfy the burden of proving the exchange ratio to be fair and reasonable. He proposes that any approval of the transaction should require the stock exchange ratio to be modified to favor Coast Line as suggested. This intervener contends that his position is supported by various factors, as follows: Relative book value per share of stock of the applicants; relative market value per share of the applicants' respective stock issues (cites prices during 1957); the ratio of the miles of roadway, and operating equipment and locomotives owned, stated as favoring Coast Line by ratios ranging between 2.07-to-1 and 2.57-to-1; and Coast Line's greater investments in other railroads and its assets other than railroad properties.

The Seaboard stockowner is convinced that the merger plan, if consummated, would confer upon present Coast Line stockowners an undeserved tax-free windfall of 42 "bonus shares" of the merged company's stock plus related dividends, for each 100 shares of Coast Line stock. He argues that the principal benficiaries would be the ACL company and the Mercantile interests. In his estimation, the ratio of exchange disregards many fundamental financial elements (unless subject to adjustments that he believes unjustified) which should be considered in evaluating the proper basis of exchange. In support of that position, he presented selected general railroad statistics showing annual averages per mile of road for 1950-59, inclusive, which pertain separately to such items as net operating income, net income after fixed and contingent charges, return on investment, dividends paid, and operating revenues and expenses for Seaboard, Coast Line and L-and-N, and comparable averages pertaining to all Class I railroads in the Southern

Region, including the considered railroads. By comparisons of the items shown for Seaboard and Coast Line, and the ratios of of each to averages pertaining to other railroads in the same area, the intervener argues that Seaboard is a much better earner than Coast Line on any basis, and is a better earner than the railroads of the region as a whole.

In addition to the foregoing considerations which the intervener believes understate the value of Seaboard's contribution to the merged company, he alleges that the treatment of important factors overstate the position of Coast Line. Among examples cited, are the following: (1) Accounting adjustments of recorded earnings presumably to eliminate prior distorted earnings, (2) fictitious capitalization in terms of

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earnings based upon inflated values of Coast Line's investments in (a) industrial land and other real properties (without appraisals by disinterested persons), (b) investments in securities of other railroads and dividends received thereon, (c) equal sharing of full savings after taxes contemplated to accrue as a result of the proposed merger, and (d) assignment of credit for Coast Line's proportion of undistributed earnings of L-and-N; and, (3) disregard of the disparity in Coast Line's long-term debt and fixed charges compared to those of Seaboard.

Effect upon employees. The predicted savings pertaining to the proposed consolidations, abandonments, changes in operations, pooling of facilities and equipment, and other benefits to the merged company include substantial reductions in labor costs. Computed at January 1, 1960 levels, after the fifth year of merger, payments to employees in wages and salaries, vacation and holiday pay, and health and welfare benefits would be reduced by $25,539,061 annually, and related payroll taxes amounting to $3,114,000 would be saved. Successively, during the first 5 years after consummation of the merger, the cumula-

tive amounts of wage savings would be as follows: (stated in millions of dollars) 5.69, 13.61, 21.27, 24.01, and 25.52. Translated into positions available and employee assignments, the proposals would eliminate approximately 4,257 jobs, and in addition, would require 4,439 employees to change their present job locations to other points where the merged company would operate.

The labor costs of the merged company shown in the studies are computed upon the higher applicable rates of compensation in instances where a difference presently exists between Seaboard and Coast Line as to working rules, rates of pay, and the extent of benefits provided employees within similar classifications. Jobs involving less costly rules and rates of pay would be abolished. The adjustments necessary to equalize the classification of postitions, and to provide favorable rules and compensation to employees of the merged company would involve additional wage costs amounting to $1,030,000 annually, plus $140,000 related payroll taxes, or, $1,170,000 total.

In their application and at hearing the applicants agreed to accept for the protection of adversely affected employees, conditions such as those contained in the so-called *"Washington Job agreement"*[12] dated May 21, 1936, voluntarily entered into [104] between most of the railroads in the United States and

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[12]Provides payments in respect of four types of adverse effect, as follows: (1) **Displacement allowance.** Covering employees placed in a worse position, but, who do not lose their jobs—equal to the difference in compensation before and after the change in employment. (2) **Consolidation allowance.** Covering employees deprived of employment—equal to 60 percent of the employee's average compensation, reduced by compensation received in other employment during the period of protection. (3) **Separation allowance.** Covering employees deprived of employment—a lump sum payment which may be accepted in lieu of a consolidation allowance. (4) **Moving allowance.** Covering employees required to change their place of employment—equal to the cost of moving and travel expense entailed, and, the monetary loss on the sale of the employee's home.

21 standard labor organizations representing employees of the railroads.

The applicants estimate that the cost of providing such protection to the affected employees would total $14,509,672, of which $1,782,612 would be expended during the first year after consummation of the merger, and in the remaining years of the first 5-year period, the costs entailed would be, in order, $4,032,068, $5,402,064, $3,092,804, and $200,124. The amounts expended in providing protection to adversely affected employees of the applicants are chargeable to operating expenses, and thus would become a deduction in computing Federal income taxes. At the current tax rate of 52 percent, the cumulative reduction in income taxes would be $7,545,029, and the remaining $6,964,643, would be the merged company's net cost.

For purposes of arriving at the estimated cost of the employees protection program, the applicants assume that affected employees would be obliged to accept offers from the merged company of any suitable position at a point that would require transfer to a different location (with proper compensation for moving and other allowable costs). While, on that theory, a refusal to transfer would be considered as terminating the employee's rights and relieving the merged company from the obligation to provide protection, the applicants assume that the employees would prefer to transfer rather than forego the prescribed protection. Also, the estimations assume that wherever practicable during the period of consummating the merger and changes in operation, job openings created by normal attrition would be filled by eligible employees displaced or otherwise disturbed as a result of the merger. Projections of the rate of attrition during the first 5 years after the merger takes effect indicate that jobs vacated through occurrence of death, retirements, dismissals, resignations, and other normal causes would total 1,134 annually, or, 5,670. Because most resignations affect junior jobs and generally do not represent suitable replacement

for persons whose jobs would be abolished, openings by attrition would not provide job availability for all empolyees expected to be affected by the merger transactions.

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On behalf of 24 national and international standard railway labor organizations representing members employed by Seaboard and Coast Line, Railway Labor Executives' Association (Labor) contends that the proposed merger transaction is not consistent with the public interest, and therefore must be disapproved in its entirety. However, in the event the transactions in question are approved, Labor requests imposition of conditions[13] for the protection of adversely affected railway employees pursuant to the provisions of section 5(2)(f), as follows:

> 1. If as a result of the transactions herein authorized, hereafter referred to as the transaction, any employee of the applicants or other carrier or carriers by railroad affected by the transaction, is deprived of employment with said carriers, said employee, hereinafter referred to as a dismissed employee, shall be accorded a monthly dismissal allowance equivalent to one-twelfth of the compensation received by him in the last twelve months of his employment in which he earned compensation prior to the date on which he is first deprived of his employment as a result of this transaction. This allowance shall be made during the protective period to each dismissed employee while unemployed, provided, however, that no such allowance shall be paid to any employee who fails to accept employment with seniority rights at a point which does not require a change of residence if offered a position, the duties of which he is qualified to perform and for which he is eligible.
>
> The dismissal allowance of any dismissed employee who is otherwise employed shall be reduced to the extent that

[13] As proposed, the conditions are asserted to embrace provisions of the **Washington Job Agreement** "with certain modifications necessary to meet minimum requirements of the second sentence of section 5(2)(f)."

his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his representative, and the carriers, should agree upon a procedure by which the carriers shall be currently informed of the wages earned by such employee in employment other than with the carriers, and the benefits received.

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The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service after being notified by the carriers of a position, the duties of which he is qualified to perform and for which he is eligible, or in the event of his resignation, death, retirement on pension, or dismissal for good cause.

2. Any employee eligible to receive a dismissal allowance under Condition No. 1 hereof may, at his option and within 30 calendar days (excluding Saturdays, Sundays and legal holidays) following the date on which he is deprived of employment, resign and in lieu of all other benefits and protections provided in these conditions, accept in a lump sum a separation allowance determined in accordance with the following schedule:

Length of service	Separation Allowance
1 year and less than 2 years	3 months' pay
2 years and less than 3 years	6 months' pay
3 years and less than 5 years	9 months' pay
5 years and over	12 months' pay

In the case of an employee with less than one year's service, five days' pay, at the rate of the position last occupied, for each month in which he performed service will be paid as the lump sum separation allowance.

3. No employee of the applicants or other carrier or carriers by railroad affected by the transaction authorized herein who is continued in service shall for the protective period as a result of the transaction be placed in a worse position with respect to compensation and rules governing working conditions than he occupied on the date on which the transaction is approved so long as he is unable in the normal exercise of his seniority rights under existing agreements, rules and practices to obtain a position producing compensation equal to or exceeding the compensation of the position held by him on the date on which the transaction is approved, provided the exercise of the employee's normal seniority rights to secure another available position does not require a change in residence.

Whenever an employee is displaced, that is, placed in a worse position with respect to his compensation as a result of the transaction, and so long (during the protective period) as he is unable in the normal exercise of his normal seniority rights

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to obtain a position producting compensation equal to or exceeding the compensation of the position from which he was displaced, provided such available position would not require a change in residence, he shall be paid a monthly displacement allowance equal to the difference between the monthly compensation received by him in the position in which he is retained and the monthly compensation received by him in the position from which he was displaced. The latter compensation, referred to hereinafter as a "displacement allowance," shall be determined by dividing separately by 12 the total compensation received by the employee and the total time for which he was paid during the last 12 months preceding his displacement as a result of the transaction (thereby producing the average monthly compensation and the average monthly time paid for, which shall be the basic amounts upon which a displacement allowance shall be determined). If the displaced employee's

compensation in his current position is less in any month in which he performs work than the aforesaid compensation he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average monthly time, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the average monthly time paid for; provided, however, that nothing herein shall operate to affect in any respect the retirement on pension or annuity rights and privileges in respect of any employee.

4. No employee affected by the transaction approved herein shall be deprived during the protective period of any incidents of his previous employment such as the benefits to which he may be entitled under the Railroad Retirement Act, supplemental pension plans, free transportation for himself and his family, life insurance, hospitalization and medical care (whether through a hospital association or an insurance plan), relief and all other incidents of his employment to which he may have been entitled prior to our approval of the transaction herein.

No employee shall be deprived of his vacation rights as a result of the transaction. Whenever an employee is deprived of his employment and secures other employment, if his vacation rights in the new employment are less than those of his former employment with the carriers, he shall be paid by the carriers an amount equivalent to the difference in vacation time allowed in his new position and that to which he was entitled on his former position. Said amount to be determined in accordance with the provisions of Condition No. 1 hereof and in addition to any allowance provided by Condition No. 1.

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5. In the event an employee is displaced to a position requiring expenditures of money for travel, meals, etc., which

was not required of the employee in his former position, the carriers shall reimburse him for said expenditures during the protective period.

6. Any employee retained in the service of the applicants or other carriers by railroad affected by the transaction herein approved or who is later restored to service after being entitled to receive a dismissal allowance, and required to change the point of his employment as a result of the transaction, and within the protective period is required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects, for the traveling expenses of himself and his immediate family, and for his own actual wage loss, not to exceed two days, the exact extent of the responsibility of the carrier is to be agreed upon in advance by the said carriers and the employees affected or their representatives.

If any such employee is furloughed after changing his point of employment as a result of the transaction, and elects to move his place of residence back to his original point of employment, the carriers shall assume the expense of moving his household and other personal effects under the conditions imposed in the preceding paragraph of this Condition No. 6.

Changes in place of residence subsequent to the initial changes caused by the transaction, which do not result from the transaction but grow out of normal exercise of seniority, shall not be considered as within the foregoing provisions of this condition.

7. In the event any dispute or controversy arises with respect to the protection afforded by these conditions or with respect to their interpretation, application, or enforcement, which cannot be settled by the carriers and the employee or his authorized representatives within 30 days after the dispute arises, it may be referred by either party to an arbitration com-

mittee for consideration and determination. Upon notice in writing served by one party on the other of intent by that party to refer the dispute or controversy to an arbitration committee, each party shall, within 10 days, select one member of the arbitration committee and the two members thus chosen shall select a third member who shall serve as chairman. Should the two members be unable to agree upon the appointment of the third member within 10 days, the parties shall then within an additional 10 days agree to a method by which

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a third, or neutral, member shall be appointed. The decision of the majority of the arbitration committee shall be final, binding and conclusive. The salaries and expenses of the third member shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them. This Condition No. 7 shall be applicable to all matters arising with respect to the foregoing Conditions Nos. 1, 2, 3, 4, 5 and 6.

In proceedings arising under this Condition No. 7, the employees shall have the burden of establishing a *prima facie* case. The carrier then shall have the burden of proving that the employee was affected as the result of circumstances unconnected with the transaction.

8. (a) The following conditions shall apply, to the extent applicable in each instance, to any employee who is retained in the service of any of the carriers (or who is later restored to service after being entitled to receive a dismissal allowance), who is required or elects to change the point of his employment within the protective period as a result of the transaction herein approved and is therefore required to make a change of residence:

1. If the employee owns his own home in the locality from which he is required to move, he shall at his option be reim-

bursed by the merged carrier for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the filing of the applications by the applicants herein, to be unaffected by the filing of said applications. The merged carrier shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other person.

2. If the employee is under a contract to purchase his home, the merged carrier shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligation under the contract.

3. If the employee holds an unexpired lease of a dwelling occupied by him as his home, the merged carrier shall protect him from all loss and costs in securing the cancellation of his said lease.

(b) Changes in place of residence subsequent to the initial change caused by the consummation of the transaction herein approved and which grow out of the normal exercise of seniority in accordance with the working

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agreements and do not result from actions taken by the merged carrier as a result of the transaction, are not comprehended within the provisions of this Condition.

(c) No claim for loss shall be paid under the provisions of this Condition No. 8 which are not presented within one year after the date the employee is required to move.

(d) Should a controversy arise with respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and costs in securing termination of a

lease, or any other question in connection with these matters shall be decided through joint conference between the representatives of the employees and the carrier on whose line the controversy arises and in the event they are unable to agree, the dispute may be referred by either party to a board of three competent real estate appraisers, selected in the following manner: One to be selected by the representatives of the employees and one by the carrier, and these two shall endeavor by agreement within 10 days after their appointment to select a third appraiser, or to select some person authorized to name the third appraiser. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expense of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall by paid by the party incurring them, including the compensation of the appraiser selected by such party.

(e) In those instances comprehended by this Condition No. 8, where an employee is required to move his place of residence and desires to purchase a home or lease a dwelling to be occupied by him as his home at his new point of employment, the fair value of the new home or lease shall be determined as of a date sufficiently prior to the filing of the applications herein as to be unaffected thereby. Disputes or controversies arising as to the interpretation or application of the protection afforded by this subparagraph (e) shall be resolved in accordance with the procedures set forth in subparagraph (d) of this Condition No. 8.

9. If any carrier shall have rearranged or adjusted its forces in anticipation of approval of this transaction, with the purpose or effect of depriving an employee of benefits to which he should be entitled under these conditions as an employee affected by the transaction, these conditions shall apply to such employees as of the date when he was so affected.

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10. When the merged carrier contemplates taking action as a result of the transaction which will result in the dismissal, displacement or transfer of employees, it shall give at least 90 days written notice of such intended action by posting a notice on bulletin boards convenient to the interested employees of such carrier and by sending by registered mail notice to the representatives of such employees. Such notice shall contain a full and adequate statement of the proposed changes to be effected, including an estimate of the number of employees in each class affected by the intended changes. The date and place of a conference between representatives of all the parties interested in such intended changes for the purpose of reaching agreements with respect to the application thereto of these conditions, shall be agreed upon within 10 days after receipt of said notice and conferences shall commence within 30 days from the date of said notice.

11. (a) The term "affected" as used herein shall be understood in its ordinary sense indicating the production of an effect.

(b) The term "deprived of employment" as used herein shall be understood as meaning the abolishment of a position and the inability of the incumbent thereof to secure another position by the exercise of seniority rights or the loss of a position by an incumbent as a result of the exercise of seniority rights by another employee, if the incumbent is unable by the exercise of his seniority rights to secure another position.

(c) The term "as a result of the transaction" shall be understood in its ordinary sense indicating an effect or consequence of or as proceeding, arising or springing from the transaction approved.

(d) The term "protective period" shall mean that period of time from the effective date of our order herein to the expira-

tion of four years therefrom, provided, however, that with respect to individual employees, such period shall not continue for a longer time following the effective date of our order than the period during which the particular employee concerned was in the employ of the carriers prior to the effective date of our order.

(e) A "change in residence" shall be deemed to occur only if the point to which the employee is required to transfer increases the distance from his former home to the point of his former position by more than 10 straight line miles.

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Labor points out that the foregoing proposals would not extend the protection to employees beyond the 4-year statutory period, and requests additional protection for employees who may be adversely affected by changes which occur during the third, fourth, or fifth years following the effective date of the Commission's order, by inclusion of an appropriate provision, the effect of which would be, as follows:

> If the total amount of compensation paid under the conditions is less than adversely affected employees would have received under the *Washington Agreement*, applied from the date of adverse effect, then they are entitled to the remaining benefits that they would have received under the latter.

Labor also suggests that in order to assure "fair and equitable protection" to the affected employees, imposition of the foregoing conditions should be further limited, as follows:

> A. On the effective date of our order herein the merged carrier shall take into its employment all employees of the carriers from which the merged carrier results.
>
> B. No employee of the predecessor carriers who was actively employed on the date of the filing of the application herein shall be deprived of employment or placed in a worse position with respect to compensation at any time

during his employment because of the merger approved herein or because of any program of economies resulting from the merger; provided however, that the representatives of the employees and the merged carrier may agree, pursuant to authority granted by the third sentence of Section 5(2)(f), to methods combining the work forces of the merged carrier which may result in the recall of presently furloughed employees and the furlough of a presently active employee in which event the latter employee shall be entitled to the protections set forth in the conditions prescribed hereinabove.

C. All disputes regarding the interpretation, application or enforcement of the provisions of paragraphs A and B shall be resolved in accordance with the procedure set forth in Condition No. 7 of the aforesaid conditions.

Testimony was received separately on behalf of various categories of employees of Seaboard and Coast Line, together

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represented by 11 organizations which are members of Railway Labor Executives' Association, and on behalf of dining-car employees of both applicants represented by an independent union. Each group is represented by a general chairman elected by the members, who negotiates with management in matters pertaining to employment rights and obligations. Statements prepared by the chairmen were received and the responsible person was cross examined, or, upon stipulation as to their purpose, the statements were received without calling the witness. Each organization representing particular classes or crafts of employees is party to individual collective bargaining agreements and amendments, revisions and supplements thereto. These constitute working agreements which set forth terms and conditions governing hours of service, schedules of rates of pay, standards of working conditions, assignments, hours of work, claims, grievances, and other aspects of the employees' indi-

vidual and group status. They also describe methods of establishing and maintaining seniority rosters which provide means of assuring the continued employment of individuals with the railroad based upon the employee's length of service. The rosters are tailored to fit particular situations, and each is restricted to listing persons holding positions embraced within particular types or classes of employment and job descriptions, and is further limited to particular geographical, departmental, or operational aspects, and by various combinations of these and other characteristics of the jobs.

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Generally, among interested employees who are fit and able to perform the duties pertaining to positions available, those with the greatest seniority have entitlement to consideration prior to persons with lower seniority ratings. Employees' standings on the roster of a particular seniority district are not interchangeable with standings relating to other seniority areas on the same railroad, and of course, have no status on other railroads. When available, positions or assignments are filled through the exercise of seniority rights, the next eligible junior employee becomes vested with entitlement to fill the new vacancy by promotion. Conversely, as positions are abolished or otherwise eliminated and reductions in force take place, the incumbent employee, upon being displaced, is entitled to assignment to any position regularly held by individuals with lower seniority. This procedure results in "rolling down" or "bumping" of less senior employees. Ultimately, the employee most recently assigned to a regular position becomes separated from his employment either by furlough for a temporary period, or, permanently by dismissal. Under normal bumping processes, a single job abolishment conceivably might cause displacements, reassignments, transfers, and dismissals affecting as many as 175 employees within a particular seniority district. More conservatively, every job elimination that would

result from consummation of the proposed merger could be the cause of between 10 and 30 present employees of Seaboard and Coast Line involuntarily changing their residences and otherwise suffering some degree of personal and family disturbance.

Employee witnesses expressed fears that railroad employees who become newly unemployed would face problems compounded by factors related to the existing unemployment in the railroad labor market. For example, many of the previously furloughed and dismissed employees may possess a prior right to be recalled to service, if and when conditions warrant; the lowest senior employees affected by reductions in force attributable to the merger would be older persons with considerable seniority, inasmuch as younger persons have become displaced in recent years because of other reasons; railroad employment opportunities would become increasingly scarce as additional railroads effectuate proposed consolidations and commence streamlining their forces; and many of the skills attained in railroad employment are not readily adaptable to other industrial jobs. The employees also desire to avoid being required to transfer their assignments to other localities because of the disruptive effect upon themselves and their families and other dependents, and, because they foresee the possibility that they might be forced to make a series of changes in order to retain their earned seniority rights.

A member of the executive committee of the Railway Labor Executives' Association, who also is president of an affiliated organization of railroad employees, appraised the expected total effect of the merger proposed herein upon the employees of Seaboard, Coast Line, and competing railroads from which the merged company would divert traffic and revenues. Supporting the general premise that railway employees have been and presently continue to be subject to increasingly severe unemployment conditions, are cited

statistics showing that average number of persons employed by Class I railroads in the United States decreased from 1,420,266 during 1945 (after World War II), to 1,206,312 during 1953 (after the Korean War), and continued to fall off each year thereafter to approximately 700,000 employees during 1961; and that the persistent incidence of railroad unemployment contributes largely to the general unemployment in many areas classified as "distressed" because of substantial labor surpluses.

Labor's position is that the prospective plight of railway employees now is vastly different than when the Commission heretofore from time to time considered individual applications by railroads for authorization to merge. More serious consideration of the effect upon employees is asserted to be mandatory today in view of there prevailing at this time an "era of mass merger" in which railroads throughout the United States are involved. That situation is said to arise from the filing within a relatively short time of each other, the application under consideration, and other applications by major railroads, each seeking authority to merge the properties of existing railroad entities, or, to acquire financial and/or managerial control of independent railroads through ownership of capital stock. In view of the present trend of major railroads to seek authorization to affiliate with other railroads as a means of reducing operating expenses, primarily by shrinking the employment forces, Labor submits that the conditions heretofore applied in section 5 cases are not sufficiently broad in coverage to provide fair and equitable protection to carrier employees.

The previously imposed conditions are criticized as being inadequate in the present situation, in that the protection afforded fails to assure that the authorized transactions would not result in the affected employees being in a worse position

with respect to their employment, as required by the statute. Specifically mentioned are the conditions prescribed by the Commission in *New Orleans Union Passenger Terminal Case,* 282 I.C.C. 271, which embrace provisions of the *Washington Job Agreement,* and those in *Oklahoma Ry. Co. Trustees Abandonment,* 257 I.C.C. 177. These have been adopted in numerous recent decisions authorizing mergers and related transactions. See *Louisville & N. R. Co. Merger,* 295 I.C.C. 457, and *Erie R. Co. Merger,* 312 I.C.C. 185. The imposition of the *New Orleans conditions,* in the *Erie case,* was affirmed as proper by the Supreme Court in *Maintenance of Way Employees* v. *United States,* 366 U. S. 169.

On brief, Labor argues that the only fair and equitable arrangement that would prevent the hardships which would follow the announced drastic reduction of the employment forces of Seaboard and Coast Line in the event the proposed merger is approved, would be to impose conditions requiring continued employment of all employees after consummation of the merger. Such conditions would place full reliance upon the operation of natural attrition as the means of achieving future job reductions by the merged company. Labor suggests adoption of "attrition conditions," in the form specified in the conditions A, B, and C, hereinabove. Arguments in favor of such conditions refer to

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(1) the applicants each are financially strong and show no need for the merger, (2) the estimated annual savings of $38,000,000 include reduction in the cost of employment to the extent of 74 percent, or $29,000,000, and places an unreasonable burden upon labor, (3) fewer employees would be forced to move their residences, and (4) considerably less bumping by exercise of seniority rights would occur. *St. Paul Bridge & Term. Ry. Co. Control,* 199 I.C.C. 588 (596-7), is cited as prescribing labor conditions similar in type to the aforementioned conditions.

Labor proposes that the protection afforded to affected employees of Seaboard and Coast Line, also cover employees of other railroads which would be obliged to decrease their employment forces because of the loss of traffic and revenues which the merged company would divert. Cited specifically, are estimates by officials of Florida East Coast Railway that some 730 employees would be subject to displacement or separation, if as anticipated by East Coast, approximately 23 percent of its total freight and passenger revenues are lost. Labor asserts that the East Coast employees are "railroad employees affected," even though they are not employees of an applicant or a carrier-party to the transaction under consideration.

Brotherhood of Railroad Trainmen v. *Baltimore & Ohio R. Co.*, 331 U. S. 519, is cited as construing the phrase "affecting such employees" contained in section 17(11), to mean the same as "prejudicing such employees." Labor contends that the same interpretation applies to the similar language in regard to the interests of employees, contained in sections 5(2)(c), and 5(2)(f). In view of such arguments, Labor submits that the basic test involved relates solely to whether the employees claiming protection are "affected" or "injured" by the transaction, without regard to the legal relationship of the employing carrier to the proceeding under consideration. Leading decisions of the Commission and the courts are discussed as supporting the foregoing proposition, and showing that the Commission does not have an unbroken line of precedent in interpreting section 5(2)(f) as limited only to employees of an applicant or a carrier involved in a transaction. Cited as of importance in settling this issue, are views recently expressed by the Commission as to the scope of section 5(2)(f), in its brief to the Supreme Court filed in *Brotherhood of Maintenance of Way Employees* v. *United States, supra*, in defense of the order prescribing labor protective conditions in *Erie R. Co. Merger, supra*. Labor summarizes the

Commission's position as requiring that those who are economically injured in consequence of a section 5 transaction should receive a "full measure of compensatory benefits for the statutory period."

The brief discusses the *New Orleans conditions*, and argues that such would not be appropriate in the circumstances herein because they fail to protect all the incidents of employment, including so-called "fringe benefits" generally. In support, Labor asserts that section 5(2)(c) requires the Commission to consider the interests of employees in finding that the proposed

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merger is consistent with the public interest; and subparagraph (f), requires imposition of "a fair and equitable arrangement" to provide that the employees of carriers by railroad affected shall not be in "a worse position with respect to their employment" for not less than up to 4 years following the date of the Commission's approval. Labor, thus interprets the statute as requiring a determination of the type of conditions that best would suit the affected employees in terms of protection to the stability of the labor supply, and to the individual employee's investment in seniority and attainment of skills in railroad employment. The *New Orleans conditions* also are faulted for providing two methods of arbitration in regard to contested claims of employees that they are adversely affected by transactions approved by the Commission. Presently, such matters may be placed before a special board provided in the *Oklahoma conditions* (condition 8), or, before a permanent committee provided in the *Washington Job Agreement*, (section 13). Under either method, the railroads heretofore have prevailed in their position that the employees must satisfy the burden of proving the contention, even though all the evidence to establish its validity is in the railroads' possession. Labor requests imposition of proposed Condition

No. 7, shown hereinabove, which would shift the burden of proof to the railroad after the employee has presented a *prima facie* case.

Labor further argues that the application herein should be denied on the merits, because the applicants failed to prove that authorization of the proposed transaction would be consistent with the public interest within the meaning of section 5(2), and failed to satisfy the standard of a "clear and strong public gain" as spelled out in *Wheeling & L. E. Ry. Co. Control,* 254 I.C.C. 505 (510) and cases cited therein. Many pages are devoted to the analysis of evidence purporting to prove (A) that neither Seaboard nor Coast Line are weak carriers financially who would be saved by consummation of the merger, (B) that neither applicant presently is in jeopardy of financial failure or instability because of declining revenues and rising costs, and (C) that the annual savings of $38,000,000 contemplated as realizable after the fifth year of merged operation should be regarded as speculative on grounds that the applicants are not firmly committed to adopt all the suggested coordinations, eliminations of train service, and abandonments of lines upon which the estimated savings are premised; and that the supporting studies regarding expected savings by the consultant Wyer are not worthy of credence for the reason that in a brief filed March 25, 1957, in *Florida East Coast Ry. Co. Reorganization, supra* Coast Line contemptuously denounced and rejected studies prepared by Wyer for the account of the holder of a majority of the debtor's Refunding Mortgage Bonds; while, in the proceeding at hand, the applicants accept as entirely proper, results of studies which Labor alleges are founded upon the same bases and theories as those in the earlier case.

In a separate section of the brief, Labor contends that instead of any prospective public gain, the proposed merger would produce positive injury to the public, shown by evidence

that the proposed consolidation of operations (A) would divert traffic from, or otherwise do damage to at least five other railroads,

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(B) would cause irreparable adverse effects to numerous railroad employees and their families, variously estimated between 32,000 and 100,000 persons, by the wage earner being required to change the location of his employment; and, whose moving would cause extreme economic disturbances to communities in which such employees resided for many years and have been respected citizens and homeowners, and (C) would result in the elimination of present competition by Seaboard and Coast Line against one another, with no offsetting benefits to the public, and in that sense, fails to conform with antitrust law requirements discussed by the Supreme Court in *McLean Trucking Company* v. *United States*, 321 U. S. 67 (86-87).

In rebutting Labor's contentions, the applicants present calculations showing that employee protection under the attrition conditions, construed to permit employees to refuse to move from the area of their present employment and yet retain the benefits of the conditions, would require 35 years to reduce the combined forces of Seaboard and Coast Line to the size required for the merged company's efficient operations. Using 1957 data which underlies the applicants' initial wage studies, the cost in wages to employees not necessary following consummation of the merger, is estimated to be in excess of $149,000,000 to which would be added $12,000,000 payroll taxes, and adjusting the total thereof to reflect costs as of January 1, 1960, the potential cost would be $170,874,000. However, should the merged company have complete freedom to transfer employees as suitable vacancies occur at other points on the system, relatively small costs would be incurred. Assuming further, that the merged company would be able

to transfer any eligible and qualified employee to fill vacancies created by attrition, even outside seniority districts and across craft lines, (so long as no qualified person with greater seniority on the affected roster were available to fill the vacancy) the applicants believe that the total cost, including moving expenses, might be less than the cost of providing consolidation allowances in combination with the other forms of protection arising from the *Washington Job Agreement conditions*, which the applicants' initial studies contemplated would be imposed.

In view of Labor's position throughout the hearing, and in anticipation of arguments thereon, the applicants on brief, rely primarily upon the argument that protective conditions, such as the Commission has prescribed in recent merger authorizations, offer adversely affected employees substantial protection, the like of which no other industry in the United States, by law, is required to underwrite. The applicants assert that protective conditions which have developed from the *Washington Job Agreement*, assure affected employees that their individual interests would not be worsened in respect to compensation and rules governing working conditions; and that during the priod of protection, the affected employees continue to receive the advantages of the same fringe benefits to which active employees are entitled.

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The applicants oppose the suggested attrition conditions as being tantamount to a "job freeze", such as the Supreme Court in the review of the *Erie R. Co. Merger* case, *supra*, held is not required under the provisions of section 5(2), and would conflict with the provisionss of the National Transportation Policy which direct the Commission to promote economical and efficient service,and to foster sound conditions in the transportation industry. In the applicants' view, an opposite result would be achieved, if a merger is approved,

but the merged company is not permitted to eliminate duplicative operations, services, facilities, and general costs that otherwise could be eliminated upon consummation of the merger. The applicants also assert that to accept Labor's suggestion would cause indeterminate postponements and outright loss of most of the benefits contemplated by the merger proposed herein.

Effect upon railroad competition. Many aspects of the effect which the proposed merger would have upon competition amongst railroads and by railroads with other forms of transportation are reviewed throughout the preceding portions of this report. As shown, much of the evidence and contentions by the applicants and by shipper and public interests favoring their position are contradicted in varying degrees by the evidence and views expressed by intervening railroads and by industries and communities which support their views. The brief of the United States Department of Justice (Justice) accepts as clearly proved by interveners herein, that the only benefits from the proposed merger and the elimination of competition between the affected railroads would be to assure increased revenues to the applicants; that both applicants are financially strong; that during 1950-59 inclusive, each enjoyed favorable annual net income and earnings per share of capital stock and paid satisfactory dividends; that the applicants and the systems of which they are part compete vigorously; and that such competition has contributed to the growth of the Southeast and has resulted in improved railroad service and industrial development and production. Justice summarizes evidence showing that the proposed merger would completely eliminate the existing railroad competition in the central and southwestern portions of Florida, and that shippers interested in such areas would face substantial increases in their cost of operations and would face poorer service despite higher transportation charges. In similar manner, Justice contends that industries at points outside Florida would also be disadvan-

taged in their ability to compete with domestic and foreign interests whose transportation service would not be affected. Conceding that some industries which are served directly by the merged company would enjoy lower rates and improved service, Justice is concerned that the competitive situation within the commercial industries in question would be disrupted and competitors not in position to utilize the merged company's improved service would be injured.

Justice relies upon its findings that the Central of Georgia Railway Company, the Georgia Railroad, and the Georgia & Florida Railroad each would lose considerable traffic and revenues to the merged company to the extent that traffic now interchanged by

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Seaboard and Coast Line with the aforesaid shortline railroads would be handled solely by the merged company in the future; that the loss of the traffic of the short lines and the decrease in their revenues would become more drastic in the future; that ultimately the affected carriers would be required to discontinue service in part, or to abandon their entire operations; and that in turn, the industries and communities in the areas where railroad service would deteriorate would be affected adversely.

Justice also presents its belief that consummation of the merger unavoidably would end the assistance and friendly solicitation presently provided by Coast Line in the securing of traffic for movement via through routes involving the Florida East Coast Railway. This assumes that the merged company would substitute the present connecting routes of Coast Line and Seaboard to and from points and areas also served by East Coast, and that the latter's small sales organization would be unable to attract traffic in competition with the combined solicitation force of the merged company. On such

bases, Justice is convinced that the loss of traffic and revenues in the handling of southbound manufactured and miscellaneous traffic beyond Jacksonville would impair East Coast's ability to originate shipments of agricultural products moving northbound, and that eventually the ability of East Coast to continue operations as a Class I railroad would be jeopardized. Justice joins the request of the Department of Defense that the availability of adequate railroad service to and from Cape Canaveral and Patrick Air Force Base be assured as a means of preventing any adverse effect upon the interests of national defense.

Relying upon the evidence cited in its brief, Justice argues that the proposed merger would flagrantly contravene the policy of the antitrust laws, and should be denied immunization from the prohibitions of the Sherman Act (15 U.S.C. 1), and section 7 of the Clayton Act (15 U.S.C. 18), *McLean Trucking Company* v. *United States*, 321 U.S. 67 (80, 86-7), is cited as requiring the Commission to consider the antitrust laws, and *United States* v. *Union Pacific Railroad Company*, 226 U. S. 61 (85, 87-8), is cited as including antitrust violations as a basis for denial of relief under section 5 of the Interstate Commerce Act. Also cited, is *United States* v. *DuPont & Company*, 353 U. S. 586 (590-1), regarding acquisitions which may substantially lessen competition between two corporations, restrain such commerce in any section or community, or, tend to create a monopoly of any line of commerce.

Justice is of the opinion that the merger as proposed would not satisfy the requirements of section 5(2) and the provisions of the National Transportation Policy, because it would fail to promote the recognized objective of assuring adequate transportation service; would impair transportation service within the Southeast; would not achieve or maintain an adequate transportation system; and would deny the advantages of competitive service necessary to provide adequate railroad service

to affected shippers and communities. The applicants' failure to announce positive commitments to implement the recommendations of the engineer consultants regarding abandonment of lines and curtailment of various present services, is criticized, and Justice charges that the plan presented by the applicants is speculative and offers no reliable basis for measuring the financial benefits which the applicants would achieve.

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PRIMARY FINDINGS

Throughout the report herein are recited numerous facts drawn from the evidence of parties supporting the proposed merger and related transactions, and evidence on behalf of interveners opposed to approval of the applications. As shown in the record, those portions of the consultants' reports and recommendations pertaining to the mechanics of achieving physical consolidation of the applicants' facilities and operations are not subject to serious contest by the interveners. A clear impression prevails that many of the judgment decisions relating to the economic effect of the propositions which the applicants advocate could be subject to other equally tenable theories. On review, it appears that the interveners have failed to establish any inherent deficiencies in the validity of the general principles upon which are based the various estimates of future operating results.

Consideration of the entire body of evidence justifies numerous primary findings of fact bearing directly upon the major issues to be resolved, among the most significant of which, are the following:

1. The physical lines, operating routes, and freight and passenger services of Seaboard Air Line Railroad Company and the Atlantic Coast Line Railroad Company are substantially similar; both serve many points in common including

practically all the major terminals of each; and they compete generally for traffic involving the same types of freight and passenger business within the territories served directly, and to and from the same off-line areas and markets.

2. Recent annual accounting statements of Seaboard and Coast Line reflect overall conditions which indicate that within the foreseeable future, neither is threatened by serious financial distress or insolvency.

3. The terms and conditions of the plan of merger of the applicants' properties and franchises have been properly approved and recommended by directors of the applicants' companies, and adopted by overwhelming majorities of the outstanding shares of voting stock of Seaboard and Coast Line, respectively.

4. Atlantic Coast Line Company, an investment company, which controls Coast Line through ownership of 35.4 percent of its capital stock, was created in 1889 by the founders of several railroad companies which formed the nucleus of the Coast Line system, and is considered to be a carrier subject to certain provisions of the Interstate Commerce Act.

5. Mercantile-Safe Deposit and Trust Company, a banking and trust company, in various fiduciary capacities and otherwise directly and indirectly holds interests representing approximately 56 percent of the capital stock of ACL company, and small interests in the stock of Coast Line and Seaboard.

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6. Following conversion of the stock of Coast Line, upon consummation of the proposed merger, ACL company would own approximately 15.2 percent of the capital stock of the merged company, and Mercantile's total stock interests through ACL company and otherwise would be equivalent to approximately 17.9 percent of the outstanding stock of the merged company.

7. The application proposing merger of Seaboard and Coast Line, and the evidence presented in proof of the public interest involved are confined primarily to disclosure and review of pertinent railroad financial and operating records, statistical data and studies, and other material relating to each applicant, on the basis of which two consultant engineering firms conducted extensive independent studies of potential economic benefits from consolidation of the properties and operations of the applicants.

8. The conclusions of the consultants, adopted by the applicants as the basis for negotiating the terms and conditions of the plan and agreement of merger, and to show the financial advantages which the applicants anticipate would be shared, predict annual savings at and after the end of the fifth year following consummation of the transaction (based upon 1960 levels of revenues and expenses), in excess of $38,700,000 before Federal income taxes.

9. Operations by the merged company of the properties of Seaboard and Coast Line would permit savings achieved by (1) consolidation of stations, terminal facilities, general offices, departments, operating divisions, and other properties separately maintained and operated by the applicants; (2) elimination of duplicate lines by means of relocation of tracks and related facilities, construction of new connecting tracks and abandonments of lines and segments; (3) use of shorter or more economical routes; (4) pooling of cars, locomotives, work equipment and repair facilities; and (5) combining of duplicative freight train and passenger train operations and service.

10. The applicants reserve for the merged company the decision whether any of the 48 separate portions of the lines of Seaboard and Coast Line, together aggregating more than 1,000 miles, which the consultants recommend for abandonment, should be continued in operation, if under merged con-

ditions, it appears that existing or future needs of affected shippers would be better served by refraining from seeking permission to abandon.

11. The merged company would handle freight traffic over portions of the existing routes of Seaboard and Coast Line in a manner permitting, among other benefits, use of lines having the most favorable physical characteristics; discontinuance of lines having the least advantages; and establishment of primary freight routes involving distances in some instances, up to about 250 miles shorter than Coast Line's direct routes; and as to other routes, up to about 400 miles shorter than Seaboard's routes between the same principal terminal points.

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12. The separate regularly scheduled freight trains of Seaboard and Coast Line would be consolidated by the merged company to permit operation of fewer through trains with heavier loads, under efficient, expedited schedules.

13. Separate passenger trains presently departing terminals of Seaboard and Coast Line at approximately the same time of day would be rescheduled to provide more frequent and convenient service, and thus achieve increased ratios of occupied capacity to total available capacity.

14. The applicants estimate that other railroads including several presently affiliated with Coast Line's system would lose about $6,600,000 freight revenue annually, due to changed patterns of traffic involving route modifications contemplated by the merged company in the stead of present routes in which Seaboard and Coast Line participate in joint-line movements; and that after deducting the added expenses of handling such diverted traffic, the potential total additional income of the merged company before Federal income taxes would be approximately $4,560,000 annually.

15. Traffic which presently does not move over portions of the lines of Seaboard or Coast Line as a part of a through movement, also might be diverted from other railroads to the benefit of the merged company; but, the amount of such increment has not been estimated by the applicants.

16. Following consummation of the merger and institution of the prospective changes in routes and operations, the exercise of unrestricted efforts on the part of the merged company to divert from other railroads the maximum amount of traffic and revenues possible—by canceling, restricting, or otherwise modifying existing routes, gateways, and channels of trade, or, by disregarding good business principles and taking unilateral actions that would disturb continuance of amicable relations with other railroad companies—would result in up to $14,250,000 gross revenues annually more than the applicants estimate would accrue as a result of the merger.

17. Relying primarily upon the applicants' representations, numerous users of the applicants' freight services support the proposed merger and the anticipated changes in service and operations which the applicants made of record, and which in the belief of the witnesses, would result in improved equipment supply and general service, and in lower total transportation costs; and similarly, representatives of communities and various local governments, and civic organizations which function to promote trade and industrial development, endorse the application and proposals herein as beneficial to industry and the welfare of the affected areas and the citizens therof.

18. The principal direct and indirect advantages foreseen by the shipping public which favors the proposed merger of the applicants, are the following:

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(a) Reduction in the time consumed and tariff charges to shippers related to switching and other services at, from,

and to terminal facilities which would not be required by the merged company;

(b) Establishment of new routes involving reduced mileage and savings in time elapsed in transit;

(c) Reduction in applicable rates at undetermined future dates because of the effect of the accumulated savings to be realized by the merged company;

(d) Increase of the availability of equipment by combining the supply of the applicants' separately owned and operated wood rack cars and other special types of cars required by industries;

(e) Assurance of faster turn-around of regular and special car equipment;

(f) Greater flexibility of available routes;

(g) Availability of broader transit privileges at important terminals and points of interchange;

(h) Simplified tracing by railroads, at the shippers' request, of cars during movement over lines of the merged company;

(i) Easier accounting and balancing of car-demurrage and other regular and special charges and allowances on equipment;

(j) More convenience in the filing and processing of claims for damage to lading; and

(k) Increased ability to negotiate with fewer separate railroad managements for the institution of proposals for new or modified rates, routes, and services.

19. In view of the expected improvements in service and potential savings in costs, affected shippers would be able to decrease their present utilization of modes of transportation other than railroads; and correspondingly, would be in position to redivert considerable of the traffic heretofore lost by the railroads as competitive rates and services of highway carriers and water lines presented greater advantages to the shippers.

20. Coast Line has financial control of Louisville & Nashville Railroad Company by virtue of ownership of about 33 percent of its capital stock, and obviously has the power to exercise control in other respects, but, during the 60 years of ownership of as much as 51 percent of the stock by Coast Line, it never has controlled the operations or traffic policies of L-and-N; and the applicants stipulate that the existing traffic and operating relationships with L-and-N would continue to be adhered to by the merged company.

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21. Florida East Coast Railway Company connects with Seaboard, Coast Line, and Southern Railway at Jacksonville, and by interchange with Coast Line participates in through routes and joint rates to and from West Palm Beach and points south therof, and provides service competitive to that over Seaboard's direct route.

22. About 85 percent of East Coast's originating traffic delivered to connecting railroads for movement beyond Florida points (up to 18 percent of its annual total revenue on such traffic), consists of perishable fresh fruits and vegetables requiring refrigerated cars which move empty to the points of loading; and about 50 percent of its terminating traffic (up to 52 percent of the total revenue carload traffic) received from connecting railroads consists of high-revenue manufactures and miscellaneous articles moving in box cars and other equipment which is returned empty to the owing railroad.

23. East Coast fears that operations of Seaboard and Coast Line as a merged company and the elimination of connecting traffic received from either in competition with service provided by the other, would cause annual losses to East Coast equivalent to more than $548,000 on traffic interchanged with Coast Line for delivery at and south of West Palm Beach, plus $1,860,000 revenues accruing to East Coast for delivery to the

same area, of interchange traffic received from Coast Line's subsidiary and solely and jointly leased railroads, and from Seaboard and its affiliated companies to the same area.

24. East Coast is apprehensive that its ability to continue satisfactory common carrier service would decline before the end of the fifth year of merged operations, to the point that potentially, the entire annual revenues on interchange traffic to and from West Palm Beach and points south, might be rerouted over the merged company's line (Seaboard's present line) for delivery to the aforesaid points.

25. Shippers and receivers of freight having facilities situated along the lines of East Coast and relying primarily upon it for railroad service; and community, civic, and trade-promotion organizations at points within the area tributary to East Coast, request that the *status quo* remain unchanged; that East Coast be protected from the potential loss of traffic and revenue which would injure its financial position and hamper its ability to continue freight and passenger operations; and reduce the capacity to continue to employ the forces now dispersed over East Coast's system and contributing largely to the economic and general welfare of many of the points and terminals in question.

26. The United States Department of Defense is concerned about any possible adverse effect upon the national defense, in the event East Coast becomes unable to continue adequate

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service at points about 175 miles south of Jacksonville, in conjunction with which a 15-mile movement by highway provides the most direct railroad transportation to and from several important military installations at and near Cape Canaveral.

27. Southern Railway System Lines, operating 8,156 miles of line, is concerned particularly that the merged lines of

Seaboard and Coast Line, in combination with those of L-and-N, (which together would operate an aggregate of 15,930 miles of line) by utilization of existing and proposed new routes most favorable to the merged company and L-and-N, would cause serious diversions of traffic and loss of revenue to Southern in addition to the total effect conceded by the applicants.

28. The routes of Southern, except within Florida, generally are parallel to and cross the lines of the applicants; and, with the exception of points south of Jacksonville, Southern serves practically every important point on the lines of Seaboard, Coast Line, and L-and-N.

29. Under long-term trackage agreements, Southern operates through trains and engines over a line of Coast Line between Hardeeville and a point near Savannah (19.9 miles), and between the latter point and Jacksonville via Jesup and Folkston (153.6 miles), which route is a component of Southern's shortest routes between Jacksonville and eastern points north thereof; and with certain exceptions is subject to restrictions against the routing of most Florida taffic via Southern, north of Jacksonville.

30. Shippers and receivers of freight, and communities and civic groups which would benefit from Southern's service in direct competition with the combined facilties and service that would exist after consummation of the merger herein, favor Southern's proposed extensions of lines; and in consonance with Southern's testimony, express vigorous opposition to the creation of a monopoly of railroad service within the areas to, from, and through which their traffic moves.

31. Those who support Southern's proposals seek assurance that the elimination of competition between Seaboard and Coast Line for available transportation business would not result in the loss of affected shippers' existing ability to choose

the carrier with whom to do business; to continue to control the routing of their respective traffic; and to instigate with separate railroads which serve them, requests for improved service, more adequate and constant supply of cars, and publication of favorable new or modified rate structures.

32. Paper manufacturers with major producing and shipping facilities served by one or more lines of Seaboard and Coast Line, and by Southern and other railroads, among other things, fear that abandonment of lines by the merged company would reduce the availability of single-line service now used, and thus add to the mileage involved in the movement of bulk commodities inbound; and that certain of their plants would be at a rate disadvantage compared to competing paper producers to and from whose plants increased single-line routes and lower rates would become applicable after merger of Seaboard and Coast Line.

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33. Central of Georgia Railway Company presently participates separately and jointly with Seaboard and Coast Line, largely as an intermediate carrier, in through routes and joint rates involving traffic principally via Columbus, Macon, Albany, and Savannah; and fears that such traffic would be lost should the merged company establish new direct routes embracing combinations of portions of the lines of each applicant.

34. Central estimates annual losses in excess of $3,000,000 gross revenues in the event the traffic presently interchanged by Seaboard and Coast Line is entirely diverted from Central's lines, or, is routed for movements involving shorter distances over Central's lines in effecting connection between the merged company's points of interchange and the terminals where other railroads receive or forward the interline traffic.

35. Savannah & Atlanta Railway Company, wholly owned subsidiary of Central, anticipates potential revenue losses of

about $441,000 annually due to diversion of overhead traffic interchanged directly with Coast Line and Seaboard, and foresees that the projected diversion by the merged company of approximately 20 percent of the annual revenues of the Georgia Railroad, with which the Savannah connects, inevitably would cause deterioration of the Georgia's operation and lessening of service to the point that the overhead traffic would be lost to the Georgia and to the Savannah.

36. Users of railroad service located at points reached solely by Central, or by Central and other railroads, in their own interests, seek to protect Central from the diversion of traffic which the applicants concede would occur; to assure that Central's financial stability would not be impaired and its operations and service not suffer disruptions and ultimate discontinuance; and to continue the present ability of Central to compete with other railroads.

37. In the interest of the Georgia Railroad, which is not an intervener on its own behalf, the public service regulatory agencies of Georgia and Alabama, and shippers and civic groups interested in the service provided by the Georgia directly or through connecting railroads, each is concerned that the almost 20 percent loss of revenues which the applicants estimate, would lead to deterioration of the Georgia's ability to continue adequate service and its inevitable demise upon expiration of the lease to Coast Line and L-and-N, which expires in 1980.

38. Gulf, Mobile & Ohio Railroad Company, operating between points on the Gulf of Mexico and Chicago, St. Louis, and Kansas City, with lines reaching Birmingham, Montgomery, and other terminals served by the applicants and L-and-N, fears that the proposed merger would adversely affect existing traffic patterns and general operations of railroads which directly serve or connect with the lines of the applicants and other railroads in the Southeast, particularly because Sea-

board and Coast Line no longer would compete with each other, and the merged company would be substituted for Coast Line in the control of L-and-N.

39. Illinois Central Railroad Company competes with L-and-N east of the Mississippi River, participates directly or indirectly

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with it in through movements in competition with both applicants, and generally enjoys greater effective cooperation with Seaboard than with Coast Line, ostensibly because Coast Line favors routing via the available routes of its affiliate, L-and-N.

40. Illinois Central's proposal to acquire control of L-and-N by requiring Coast Line to divest the stock of L-and-N to Illinois Central is objected to by Chicago & Eastern Illinois Railroad Company and the Monon Railroad, interveners which connect with Illinois Central and L-and-N at various gateways, on the basis that such common control would deprive the connecting short-lines of substantial volumes of bridge traffic, and be responsible for the eventual change in the character of service of Eastern Illinois and Monon from line-haul carriers to switching carriers.

41. Norfolk Southern Railway Company, whose participation in through routes with Coast Line presently is restricted because certain of the latter's routes are closed to movement via Norfolk Southern, fears loss of considerable of its present interline traffic because approval of the merger would eliminate the existing competition between Coast Line and Seaboard, and end the separate cooperation of each with Norfolk Southern in competition with the other's routes.

42. Norfolk Southern fears that continuation by the merged company of Coast Line's present policies in respect of publication of routes closed to participation by Norfolk

Southern, and the resulting impossibility of soliciting interline traffic between, to, and from points served by the merged company and also served by Norfolk Southern directly and with connections, would prevent its securing new traffic and revenues to offset the diversion of Norfolk Southern traffic which the applicants concede the merged company would accomplish.

43. The stock exchange ratio agreed as part of the plan of merger was arrived at by negotiation between the managements of Seaboard and Coast Line, based upon analyses of records and data pertaining to past economic, finanical, and operating conditions; details of numerous studies and projections of improved efficiencies, operating savings, and earning power of the merged comapny compared to the related combined totals of the applicants.

44. The exchange ratio, premised upon Seaboard's stock being the measure of value of the stock of the merged company on a share-for-share basis, gives consideration to appropriate statistical and accounting adjustments of reported earnings and net income applied to equalize discovered differences in accounting and tax procedures, and past and current abnormal circumstances or modifications involving the operations or financial position of one or the other of the applicants during the periods covered by the studies.

45. After conversion of Coast Line's stock as contemplated in the stock exchange ratio, the present stockholders of Seaboard would have 56.44 percent of the merged company's outstanding shares (8,565,503 shares), and Coast Line's stockholders would receive 43.56 percent of the total.

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46. Consolidation of the merged company's facilities and services, within 5 years after statutory consummation of the merger, would cause the abolishment of approximately 4,257

positions held by employees of the applicants, and would require 4,439 other employees to change their present job locations in order to retain their individually accumulated seniority and other employment rights.

47. Following the 5-year period required to implement the proposals involved in the proposed merger, the adverse effect upon the merged company's employees would account for savings of more than $25,500,000 annually, represented by decreased costs of wage and employee-benefit costs, plus about $3,100,000 savings in related payroll taxes.

48. During the period of consummation of the merger and completion of the planned changes in operations, job openings occurring throughout the merged company's system by virtue of deaths, retirements, dismissals, resignations, and other normal attrition in employee forces which the applicants estimate would average about 1,134 openings annually, or 5,670 during the first 5 years after merger, would be filled so far as practicable, by eligible employees displaced or otherwise disturbed as a result of the merger transaction.

49. Employees of each railroad, generally organized as to separate crafts and classifications of work performed, are members of national unions having local groups with jurisdiction extending to entire railroad systems, operating divisions, geographic areas, shop or office facilities or activities, or, combinations of more than one specific work interest; the representatives of which, by collective bargaining procedures, negotiate individual working agreements which describe in detail the terms of employment and the contractual rights and obligations of the employer and the employee.

50. With many variations applicable to particular agreements, the loss of each job assignment might cause multiple displacements of employees on the same roster, and the changing of the positions of several employees until the chain process

reaches down to the employee most recently assigned to a regular position, who becomes furloughed with prospects of being recalled when conditions warrant, or is permanently dismissed from railroad service.

51. Because railway labor forces have been reduced by management in recent years as a principal means of achieving lower operating costs, a high ratio of unemployment exists amongst railroad trained personnel,

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particularly those with special skills adapted solely for railroad oriented jobs; and, to a large extent, furloughed employees with relatively high seniority rights are required to wait long periods before being recalled to regular assigned positions.

52. The economies and the welfare of communities and areas, in which reside groups of the applicants' employees who lose jobs because of operating changes resulting from the merger transactions, or, who elect to remove their families to other areas where positions with the merged company are available, would be disrupted and require business and social adjustments.

53. The proposed merger would result in elimination of present competition between Seaboard and Coast Line, for the reason that the merged company would be in position to provide single-line service over combinations of portions of the applicants' present lines in substitution for competitive operations and service heretofor provided by each applicant via its separate routes as independent railroads.

54. To the extent the merged company would have the power to exercise control by publication of new routes and by soliciting shippers to make use thereof; the merged operations would eliminate the voluntary separate cooperation, by Seaboard with its connecting railroads and by Coast Line with